

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ALI ESSEILY,
Individually,

Plaintiff,

Civil No. 08-cv-12128
Hon. John Feikens

-vs-

UNITED STATES POSTAL SERVICE,

Defendant.

ORDER GRANTING DEFENDANT'S MOTION TO DISMISS

Plaintiff Ali Esseily brings this claim against the United States Postal Service ("USPS") for its alleged failure to deliver letters to the Governor of Michigan and the Michigan State Attorney General. Esseily originally filed his claim in state court, but USPS removed the case to the Eastern District of Michigan under 39 U.S.C. § 409(a), which states that the United States district courts shall have original jurisdiction over all actions brought by or against the United States Postal Service. USPS now moves this court to dismiss Esseily's Complaint under Federal Rule of Civil Procedure 12(b)(1) for lack of jurisdiction.

The Federal Tort Claims Act "clearly provides that the United States is the only proper defendant in a suit alleging negligence by a federal employee." Allgeier v. United States, 909 F.2d 869, 871 (6th Cir. 1990) (citing 28 U.S.C. § 2679(a)). "Failure to name the United States as defendant in an FTCA suit results in a fatal lack of jurisdiction." Allgeier, 909 F.2d at 871.

Because Esseily's Complaint fails to name the United States as the defendant and instead

names the USPS, I GRANT USPS's motion to dismiss for lack of jurisdiction.

IT IS SO ORDERED.

Date: June 26, 2008

s/John Feikens
United States District Judge

Proof of Service

I hereby certify that the foregoing order was served on the attorneys/parties of record on June 26, 2008, by U.S. first class mail or electronic means.

s/Carol Cohron
Case Manager